

REMARKS

Claims 1-21 are pending in the present Application. By this amendment, Claims 1, 2, 6, 11, 14, and 16 have been amended, Claims 22-24 have been added, and Claims 5 and 9 have been cancelled and rewritten into independent form. Thus, Claims 1-4, 6-8, and 10-24 are currently at issue.

I. Claim Objections

In paragraph 1 of the Office Action, the Examiner objected to Claim 14 for informalities. Specifically, the Examiner pointed out that “the first and second pillars” lacks clear antecedent basis in the claim. Applicants intended Claim 14 to depend from Claim 13, not Claim 11. Accordingly, Claim 14 has been amended to depend from Claim 13, which contains proper antecedent basis for “the first and second pillars.” Thus, Applicants respectfully submit that the Examiner’s objection to Claim 14 has been fully addressed.

In paragraph 8 of the Office Action, the Examiner objected to Claims 5, 6, 9, 12-13, 15, and 20, as being dependent upon a rejected base claim, but indicated that such claims would be allowable if rewritten in independent form. Claim 1 has been amended to include the elements of Claim 5, which the Examiner indicated would secure allowability, and Claim 5 has been cancelled. Claim 6, as amended, depends from amended Claim 1, and thus, if Claim 1 is allowed, the Examiner’s objection is remedied. Claim 9 has been cancelled and rewritten into independent form as Claim 24. Finally, Claims 12 and 13 depend from Claim 11, and Claim 20 depends from Claim 16. Applicant has traversed the Examiner’s rejections with respect to Claims 11 and 16 herein, and Applicant respectfully submits that Claims 11 and 16 are patentable. Accordingly, Applicant has not taken further action with regard to Claims 6, 12, 13, and 20 at this time.

With respect to the Examiner’s objection to Claim 15, Applicants note that Claim 15 is independent as originally written. Thus, the Examiner’s objection may be in error, and Applicants, nevertheless, request allowance of Claim 15.

II. Claim Rejections Under 35 U.S.C. § 112

In paragraph 3 of the Office Action, the Examiner rejected Claim 11 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular, the Examiner found it unclear whether the terms “second leg” and “first leg” refer to legs of the first or second member. Accordingly, Applicants have amended Claim 11 for clarification purposes, and this amendment is not intended to affect the scope of the claim. The Examiner is correct in his assertion that Claim 11 is substantially duplicate of Claim 4, as originally filed. However, by this Amendment, Claim 1 has been amended, adding additional limitations to Claim 4. Accordingly, Claim 11 is no longer substantially duplicate of Claim 4. Thus, the Examiner’s rejection has been addressed, and Applicants respectfully request withdrawal of the same.

III. Claim Rejections Under 35 U.S.C. § 102

In paragraph 5 of the Office Action, the Examiner rejected Claims 1-4, 7, 8, 10, 11, 14, 16, 17, 19, and 21 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 186,018 to Ransom (“Ransom”). By this response, Claim 1 has been amended. Thus, Applicants traverse the Examiner’s rejection with respect to Claims 1-4, 7, 8, 10, 11, 14, 16, 17, 19, and 21.

In order for a reference to constitute a §102(b) bar to patentability, the reference must disclose each and every element of the claimed invention. *Kalman v. Kimberly-Clark Corp.*, 713 F.2d 760, 771, 218 U.S.P.Q. 781, 789 (Fed. Cir. 1983). Applicants submit that Claim 1, as originally written, is patentable over the cited art. However, in the interests of furthering prosecution, Claim 1 has been amended to include the elements of Claim 5. In paragraph 8 of the Office Action, the Examiner indicated that the addition of the elements of Claim 5 would render Claim 1 allowable. Thus, Applicants respectfully request withdrawal of the Examiner’s rejection and allowance of Claim 1.

Claims 2-4, 7, 8, and 10 depend from Claim 1 and include all the limitations of Claim 1. Thus, for the reasons set forth above with respect to Claim 1, Ransom does not anticipate Claims 2-4, 7, 8, and 10.

Claim 11, as amended, includes, among other limitations, “a first leg extending from the base and a second leg extending from the base, the second leg of the first member being recessed relative to the first leg of the first member.” Ransom does not disclose or suggest this element of Claim 11.

Ransom discloses a shaft (E) composed of two sections (a), each having a cylindrical end (f), a rectangular rabbeted end (g’), and an enlarged collar (e). (Ransom, Col. 2, Lines 16-30). The two sections (a) are connected together so that the rabbeted end (g’) of each section (a) overlaps the rabbeted end (g’) of the other section (a). (Ransom, Fig. 2). Contrary to the Examiner’s assertions, the rabbeted end (g’) and the downwardly-extending portion of the collar (e) of Ransom are not “a first leg” and “a second leg,” as recited in Claim 11. First of all, neither of the cited structures even remotely resembles the structure defined as a “leg” in Applicant’s specification. The legs (58,60) in the present Application are best shown in FIGS. 8 and 10, and are not similar to the rabbeted end (g’) and the downwardly-extending portion of the collar (e) of Ransom. Second, the rabbeted end (g’) and the downwardly-extending portion of the collar (e) are not even similar to each other. Thus, regardless of an interpretation of the term “leg,” the same term cannot encompass two structures that are so dissimilar.

Ransom also does not disclose a second leg being recessed relative to a first leg. In fact, the Examiner points to no disclosure in Ransom of a second leg being recessed relative to a first leg. Instead, the Examiner points to “nesting hollows” in the prior art as teaching “recessed” limitations. No nesting hollows exist in Ransom, and the Examiner has not pointed to any teaching in Ransom of such nesting hollows. To the extent that the Examiner is relying on other prior art references for teaching nesting hollows, such reliance is improper in making an anticipation rejection. A secondary reference may only be used in a rejection under § 102 if the secondary reference: (A) Proves the primary reference contains an “enabled disclosure; (B) Explains the meaning of a term used in the primary reference; or (C) Shows that a characteristic not disclosed in the reference is inherent. MPEP 2131.01. The Examiner’s reference to the

nesting hollows does not appear to be for any of these three purposes. Further, it is unlikely that a nesting hollow could be considered a recessed “leg” as recited in Claim 11, since it seems unlikely that two hollows could “confront” each other. Thus, Ransom does not disclose or suggest this element of Claim 11, and does not anticipate Claim 11.

Claim 14 depends from Claim 11 and includes all the limitations of Claim 11. Thus, for the reasons set forth above with respect to Claim 11, Ransom does not anticipate Claim 14.

Claim 16, as amended, contains, among other limitations, “a first leg extending from the base and a second leg extending from the base, the second leg of the first member being recessed relative to the first leg of the first member.” This limitation is substantially similar to the limitation discussed above with respect to Claim 11. Thus, for the reasons set forth above with respect to Claim 11, Ransom does not disclose or suggest this element of Claim 16.

Claims 17, 19, and 21 depend from Claim 16 and include all the limitations of Claim 16. Thus, for the reasons set forth above with respect to Claim 16, Ransom does not anticipate Claims 17, 19, and 21.

IV. Claim Rejections Under 35 U.S.C. § 103

In paragraph 7 of the Office Action, the Examiner rejected Claim 18 under 35 U.S.C. § 103(a) as being unpatentable over Ransom in view of U.S. Patent No. 472,725 to Burgess (“Burgess”). Applicants traverse the Examiner’s rejection.

To establish a *prima facie* case of obviousness, all the elements of the claimed invention must be disclosed, taught, or suggested by the prior art. *In re Royka*, 490 F.2d 981 (C.C.P.A. 1974). Claim 18 depends from Claim 16 and includes all the limitations of Claim 16. Claim 16, as amended, contains, among other limitations, “a first leg extending from the base and a second leg extending from the base.” As discussed above, Ransom does not disclose or suggest this element of Claim 16. Applicants submit that Burgess also does not disclose or suggest this element of Claim 16.

Burgess discloses a spindle made of two longitudinal parts (a,b), each of which is triangular or trapezoidal in cross-section, that are placed with their oblique faces together to form the complete spindle. (Burgess, Col. 1, Lines 21-26). Burgess does not disclose any structures

that could be considered “legs” as recited in Claim 16. Indeed, the Examiner has pointed to no such structure in Burgess. Thus, the proposed combination of Ransom and Burgess does not disclose or suggest all elements of Claim 16. Since Claim 18 contains all the limitations of Claim 16, the Examiner has not made a *prima facie* case of obviousness with respect to Claim 18.

V. New Claims

By this Amendment, Claims 22-24 have been added. Claim 24 represents original Claim 9 rewritten into independent form. In paragraph 8 of the Office Action, the Examiner indicated that such a claim would be allowable. Thus, Applicants respectfully request allowance of Claim 24.

Applicant submits that Claims 22-23 are supported by the specification, and the elements thereof are shown in FIGS. 8 and 10. Additionally, Applicants submit that the prior art cited by the Examiner does not disclose, teach, or suggest all the limitations of Claims 22 and 23, either alone or in proper combination. Thus, Applicants respectfully request allowance of Claims 22 and 23.

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CONCLUSION

In view of the foregoing, Applicants respectfully request reconsideration of the Examiner's rejections and allowance of Claims 1-4, 6-8, and 10-21 in the present Application. Additionally, Applicants request the Examiner to withdraw his objections to Claims 11 and 14. Further, Applicants request allowance of newly added Claims 22-24. Applicants submit that the Application is in condition for allowance and respectfully requests an early notice of the same.

Respectfully submitted,

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By: 
Paul J. Nykaza, Reg. No. 38,984
Wallenstein Wagner & Rockey, Ltd.
311 South Wacker Drive, 53rd Floor
Chicago, Illinois 60606-6630
312.554.3300

CERTIFICATE UNDER (37 C.F.R. § 1.8a)

I hereby certify that this correspondence is, on the date shown below, being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to: Mail Stop Amendment, Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on February 28, 2005.


Natalie L. Kurowski/219847.1